



**DEPARTMENT OF ENVIRONMENTAL QUALITY
POLICY AND PROCEDURE**

SUBJECT: OVERTIME & OVERTIME EXCEPTIONS
Date: October 1, 1993
Revised: May 8, 2006

Number: 07-2.07
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AUTHORITY:

Civil Service Regulations 5.02, 5.03 and 5.06,
<http://web1mdcs.state.mi.us/humanresources/ruleregadvdisplay.asp>, Civil Service Rule 5.4,
http://www.michigan.gov/mdcs/0,1607,7-147-6877_8155-73228--,00.html#5_4, Collective Bargaining/Labor Agreements, and Fair Labor Standards Act (FLSA).

<<STATEMENT OF POLICY>>

The Department of Environmental Quality (DEQ) recognizes that employees may be required to work beyond their normally scheduled work time, which may result in overtime compensation. As a result, it is important for the DEQ to have a policy to provide information about overtime and establish guidelines that are consistent across the Department.

<<INFORMATION>>

An employee may be required to work hours that extend beyond their normal work schedule or normal number of hours in a pay period, which could result in overtime hours. Working overtime hours may result in compensation at time and a half for the overtime worked where the employee's classification is not exempt from the Fair Labor Standards Act (FLSA). Where the classification is exempt from the FLSA, the employee may still be eligible for compensatory time (see Personnel Policy 2.01). The exception to this is included below. For those covered by a collective bargaining agreement, the bargaining agreement supercedes any conflicting information.

For both eligible and non-eligible employees, the time worked in overtime status must be authorized by the supervisor before the employee works the time, if compensation is to be made.

<<ELIGIBILITY>>

The Civil Service Compensation Plan identifies those classifications that are eligible to receive overtime compensation. Classifications assigned an eligibility code of "N" are considered non-exempt or eligible for overtime, whereas classifications assigned a "Y" are exempt or ineligible for overtime pay. Each collective bargaining agreement also identifies eligibility for its respective members.

Overtime pay is issued to eligible employees for time in pay status in excess of 8 hours in a day and 40 hours in a week, or as otherwise provided in the collective bargaining agreements. Overtime payment for eligible law enforcement officers is time worked in excess of 8 hours in a day and 80 hours in a biweekly period, or as otherwise provided in the collective bargaining agreement.



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<<RATE>>

For non-exempt employees, the overtime rate of pay is one and one-half times the employee's regular rate of pay. Premium payment shall not be duplicated (pyramided) for the same hours worked. Overtime is compensated with cash payment. Compensatory accrual would be at time and one-half as well. Substituting compensatory time for overtime pay requires supervisor approval. Exempt employees who have been approved for an overtime exception request, the rate is explained below. Without an overtime exception approved by Civil Service, compensatory time accrual is hour for hour.

<<SUPERVISORY RESPONSIBILITY>>

The supervisor has the right to require an employee to work overtime, and has the responsibility to ensure that the employee does not work unauthorized overtime. The supervisor is responsible for scheduling and authorizing overtime. The process for the supervisor to obtain authorization to approve overtime within the division may vary between divisions/offices.

<<SCHEDULING>>

The supervisor has a right to require and schedule overtime work in a manner most advantageous to the employer and consistent with the requirements of state employment, and the public interest. As a result, the department will attempt to distribute overtime work as equally as practicable among employees who normally perform the assigned duties. Consideration may be given to work locations, the use of volunteers, scheduled days off, or recognition of seniority whenever requiring or scheduling overtime work. This procedure may vary amongst applicable collective bargaining agreements. Furthermore, any employee who declines to work overtime, when such overtime is to be compensated in the form of compensatory time only, is counted as having worked overtime in determining their "equal share."

The appointing authority may also mandate overtime whenever there is an emergency, or it has been determined that there are an insufficient number of employee volunteers for scheduled overtime.

The daily or bi-weekly work schedule of an employee may not be altered within that pay period just to avoid premium overtime. Any necessary changes to justify or accommodate a pre-planned activity, such as training, shall be communicated to the employee not less than 96 hours prior to the beginning of the bi-weekly work period. Contrary to the above, any employee's work schedule that is changed during a bi-weekly work period or within 96 hours prior to the beginning of a pay period shall be eligible for overtime payment. Such payment will be for all hours worked outside of the employee's original work schedule for the balance of the affected pay period.



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There is an expectation that employees will report to work promptly at the scheduled starting time and remain at the worksite until the scheduled quitting time, unless a change is authorized. For employees who are on an alternate work schedule, overtime hours would be defined as time worked over their scheduled daily hours (if 8 hours or more in a day or 80 hours per pay period) or as otherwise specified in the collective bargaining agreement. Refer to DEQ Policy 4.01 (Alternate Work Schedules) for more information.

<<HOURS WORKED & RATE OF PAY>>

The overtime rate of pay for eligible employees is one and one-half times the employee's regular rate of pay, as defined in Civil Service Regulation 5.02. This premium payment shall not be duplicated (pyramided) for the same hours worked, and is compensated with cash payment.

In this case, compensatory time, with supervisor approval, is available to all employees who would otherwise be ineligible to receive overtime pay. Additionally, an employee who is eligible to receive overtime may request compensatory time instead of an overtime cash payment. Compensatory time, in lieu of overtime, is calculated at a rate of one hour worked equals one and one-half hours earned/accrued if agreement to accrue compensatory time is reached before the work is performed; whereas compensatory time for ineligible employees who do not have an approved overtime exception is hour for hour.

Note: All compensatory time must be utilized prior to utilizing annual leave, unless such usage would otherwise result in the loss of annual leave accruals. Refer to DEQ Policy 2.01 (Compensatory Time) for more information.

In either case, eligible and ineligible, the supervisor must authorize the time to be worked in overtime status prior to the employee working that time whenever compensation is to be made.

Time/hours worked and leave used will be reported on an hourly basis; 80 hours will constitute a complete pay period. Time/hours worked is defined as all hours in pay status. This includes, but is not limited to:

- administrative leave, annual leave, banked leave time, sick leave, etc.;
- travel time required by, and at the discretion of, the employer before, during, or after the regularly scheduled workday; and,
- holidays.

All paid leave (i.e., annual leave, banked leave time, sick leave, etc.) and holidays are to be counted as hours worked when computing daily and weekly overtime.



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If an employee actually works on a holiday, a premium payment for the first 8 hours worked on said holiday is due and payable only when 40 hours in a week are exceeded. At the convenience of the employer, the employee has the option to take another day in the same 40 hour period as the holiday, unless otherwise outlined in the applicable collective bargaining agreement.

Part-time employees are not eligible for overtime compensation or compensatory time unless time worked is in excess of 8 hours in a day and 40 hours in a week, or as otherwise provided in the collective bargaining agreement.

The employee may accrue up to 240 hours of compensatory time at the premium rate.

<<SPECIAL PROVISION FOR OVERTIME EXCEPTION>>

As a rule, 9 and 10 grade level employees typically have an eligibility code of "N" and do not need an overtime (OT) exception unless there is an upward level change to an 11 within that fiscal year.

Grade levels 11 through 22 typically have an eligibility code of "Y." Civil Service will allow 11 through 13 level employees (i.e., non-managerial) to receive overtime so long as all eligibility requirements (i.e., FLSA guidelines, Civil Service Regulations, and DEQ Policy) are met. For 13-15 level managers, permission to work overtime is restricted to emergencies; whereas level 16+ and all administrative/executive/unclassified personnel are not eligible for overtime payment.

The department discourages cash payment, in lieu of compensatory time, for 11 through 13 level employees (i.e., non-managerial staff). Exceptions, however, will be considered based upon the division's operational need, description and justification of the project, the ability to compensate with cash payment given current funding source(s) restrictions, consideration for additional work that may otherwise hinder program needs, and to make or attempt to ensure equitability amongst exempt employees (e.g., pay all exempt employees compensatory time or cash payment). Approvals may vary from 1 to 6 months per request.

In accordance with the Service Employees International Union (SEIU), Scientific and Engineering Bargaining Unit (S&E) Collective Bargaining Agreement, there is no eligibility criterion for those unit members who incur overtime because of responding to Pollution Emergency Alerting System (PEAS). Instead, those SEIU S&E employees who respond to PEAS may designate whether they wish to receive compensation in the form of cash or compensatory time at the beginning of each fiscal year. Approvals, in this case, are requested for the entire fiscal year.



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<<REQUESTING AN OVERTIME EXCEPTION>>

Any division/office in need of an overtime exception, and who meets the above-mentioned eligibility criteria, should direct their requests to the Office of Human Resources. All such requests require division/office chief approval and should minimally include the employee(s) name, identification number, classification, position code, a description and justification for request, beginning and ending date of the request, and the number of overtime hours anticipated to be worked per person per pay period.

If approval to pay overtime is granted, the eligible employee shall be compensated as indicated below:

- a) If the employee's regular/hourly rate of pay is less than the highest eligible employee rate, the employee shall be paid a premium rate of one and one-half times their regular rate of pay for overtime. For example, the highest eligible employee overtime rate is \$27.58. An eligible employee's regular/hourly rate of pay for overtime (i.e., at one and a half times their base wage of \$27.58) is \$41.37.
- b) If the employee's regular/hourly rate of pay is greater than, or equal to, the highest eligible employee rate, the employee shall be paid one and one-half times the highest eligible employee rate or straight time, whichever is greater.

For example, an employee's highest eligible rate is \$30.73. Time and one-half times \$30.73 equals \$46.10.

- (1) Employees whose base hourly rate is equal to or less than \$30.73 receive time-and-one-half payment.
- (2) Employees earning \$46.10 or greater receive straight time payment.
- (3) Employees earning between \$30.73 and \$46.10 will receive \$46.10.

Note: Overtime hours for exempt employees with an Office of Human Resources approved overtime exception should enter overtime hours into Data Collection Distribution System (DCDS) under OTX1.

Approved: _____

Date: _____

May 30, 2006